

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

October 14, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:08HD-136

HAWAII

Extension of Approval in Principle of Direct Lease to Kua O Ka La Public Charter School for School Purposes, Puna, Hawaii, Tax Map Key: (3) 1-3-6:14.

BACKGROUND:

The Land Board at its meeting of October 10, 2009, under agenda Item D-4, granted approval in principle of a lease to Kua O Ka La Public Charter School for school purposes and authorization for Kua O Ka La Public Charter School to comply with Chapter 343, Hawaii Revised Statutes, as amended. One of the conditions placed by the Land Board was that should Kua O Ka La Public Charter School fail to obtain satisfactory compliance with Chapter 343, Hawaii Revised Statutes, as amended, within twenty-four (24) months, the Land Board's approval shall be rescinded. (Exhibit A)

By letter dated September 18, 2010, Board President, Keikialoha Kekipi is respectfully requesting a 24 month extension in order to fulfill the Chapter 343, Hawaii Revised Statutes requirements. The school master development plan is behind on its development timeline due to numerous unforeseen situations including contractor issues and funding cutbacks. (Exhibit B)

Staff has no objections to the request and recommend the deadline be extended from October 10, 2010 to October 30, 2012.

RECOMMENDATION: That the Board:

1. Grant Kua O Ka La Public Charter School from October 10, 2010 to October 30, 2012 to obtain satisfactory compliance with Chapter 343, Hawaii Revised Statutes, as amended
2. All terms and conditions listed in its October 10, 2009 approval to remain the same.

Respectfully Submitted,



Charlene E. Unoki
Assistant Administrator

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



Exhibit "A"

Land Board Submittal Dated
October 10, 2008, Agenda Item D-4

08HD/136

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

October 10, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:08HD-136

HAWAII

Approval in Principle of Direct Lease to Kua O Ka La Public
Charter School for School Purposes, Puna, Hawaii, Tax Map
Key: (3) 1-3-6:14.

APPLICANT:

Kua O Ka La Public Charter School, whose business and mailing
address is P.O. Box 1413, Pahoia, Hawaii 96778.

LEGAL REFERENCE:

Section 171-95(a)(2) and 95.5, Hawaii Revised Statutes, as
amended.

LOCATION:

Government lands situated at Opihikao Village, Puna, Hawaii,
identified by Tax Map Key: (3) 1-3-6:14, as shown on the attached
map labeled Exhibit A.

AREA:

3.566 acres, more or less.

ZONING:

State Land Use District: Agriculture
County of Hawaii CZO: AG-10

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO x

CURRENT USE STATUS:

Vacant.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

October 10, 2008

D-4

CHARACTER OF USE:

School purposes.

LEASE TERM:

Sixty-five (65) years

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

ANNUAL RENT:

To be determined upon final submittal to the Land Board upon satisfactory compliance with Chapter 343, Hawaii Revised Statutes, as amended.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

To be determined upon final submittal to the Land Board upon satisfactory compliance with Chapter 343, Hawaii Revised Statutes, as amended.

PERFORMANCE BOND:

Twice the annual rental amount.

PROPERTY CHARACTERISTICS:

Utilities - Electricity is available.
Slope - 3 to 25%
Elevation - 455 to 480 feet above sea level
Rainfall - 60" to 90" annual median
SCS Soil Series - **Malama Series**: Malama extremely stony (rMAD) traditionally used for woodland, pasture and orchard. **Opihikao Series**: Opihikao extremely rocky muck (rOPE) traditionally used for pasture or in native forest.
Land Study Bureau - **C178** has a productivity rating of "c" for vegetable, sugarcane, orchard and grazing and "d" for forage. **D62** has a productivity rating of "d" for vegetable, sugarcane and grazing and "e" for forage. The parcel appears to have more area in D62.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This is a request for the Land Board's approval in principle of a lease to Kua O Ka La Public Charter School and for Kua O Ka La Public Charter School to comply with Chapter 343, Hawaii Revised Statutes, as amended.

DCCA VERIFICATION:

Place of business registration confirmed:	YES	<u>x</u>	NO	<u> </u>
Registered business name confirmed:	YES	<u>x</u>	NO	<u> </u>
Applicant in good standing confirmed:	YES	<u>x</u>	NO	<u> </u>

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Prepare and process, at its own cost, all necessary studies and documentation for compliance with Chapter 343, Hawaii Revised Statutes, as amended.

REMARKS:

The subject property is currently vacant. We have no records of any past dispositions.

The current zoning is agriculture.

Applicant qualifies for a direct lease pursuant to Section 171-95(a)(2) and 95.5, Hawaii Revised Statutes, as amended. Charter signed by Governor, Chairperson of the Board of Education and Superintendent of Education in June 2000.

The school is in the process of hiring a consultant to prepare the environmental assessment, and if necessary, any other approvals. The site plan for the property is still in the early stages of development. Due to the growing needs of the community, the educational facility at Pu'ala'a needs to include Kindergarten to 12th grade.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

If Land Board approval in principal is obtained, the Kua O Ka La Public Charter School will pursue compliance with Chapter 343, Hawaii Revised Statutes, as amended and incorporate agencies and community comments.

RECOMMENDATION: That the Board:

1. Approve in principle, a new direct lease to Kua O Ka La Public Charter School, subject to the following:
 - A. At its own cost Kua O Ka La Public Charter School shall

pursue satisfactory compliance with Chapter 343, Hawaii Revised Statutes, as amended, and obtain a finding of no significant impact (FONSI) within twenty-four (24) months of the Land Board's approval;

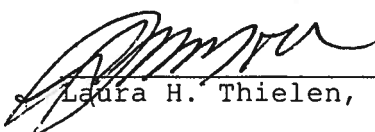
- B. Should Kua O Ka La Public Charter School fail to obtain satisfactory compliance with Chapter 343, Hawaii Revised Statutes, as amended, within twenty-four (24) months, the Land Board's approval shall be considered rescinded;
- C. Kua O Ka La Public Charter School acknowledges the following:
 - i) All costs associated with the necessary compliance with Chapter 343, Hawaii Revised Statutes, as amended, shall be borne by Kua O Ka La Public Charter School;
 - ii) That this action is an approval in principle and does not provide any assurance of a direct lease and such approval of a direct lease shall be subject to consideration by the Land Board under a separate action after satisfactorily complying with Chapter 343, Hawaii Revised Statutes, as amended;
 - iii) That there has been no representations or assurance made regarding the annual rent to be paid under a direct lease. Kua O Ka La Public Charter School agrees to provide a proposal for rent and justification for such rent in connection with the Land Board's final consideration of a direct lease after satisfactorily compliance with Chapter 343, Hawaii Revised Statutes, as amended.
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.


Respectfully Submitted,



Charlene E. Unoki
Assistant Administrator

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson 

PLAT 09
Grant 5014

THIRD	DIVISION	
ZONE	SEC.	PLAT
1	3	06
CONTAINING		PARCELS

APPENDIX C
SUBJECT TO CHANGE

CONCLUSIONS

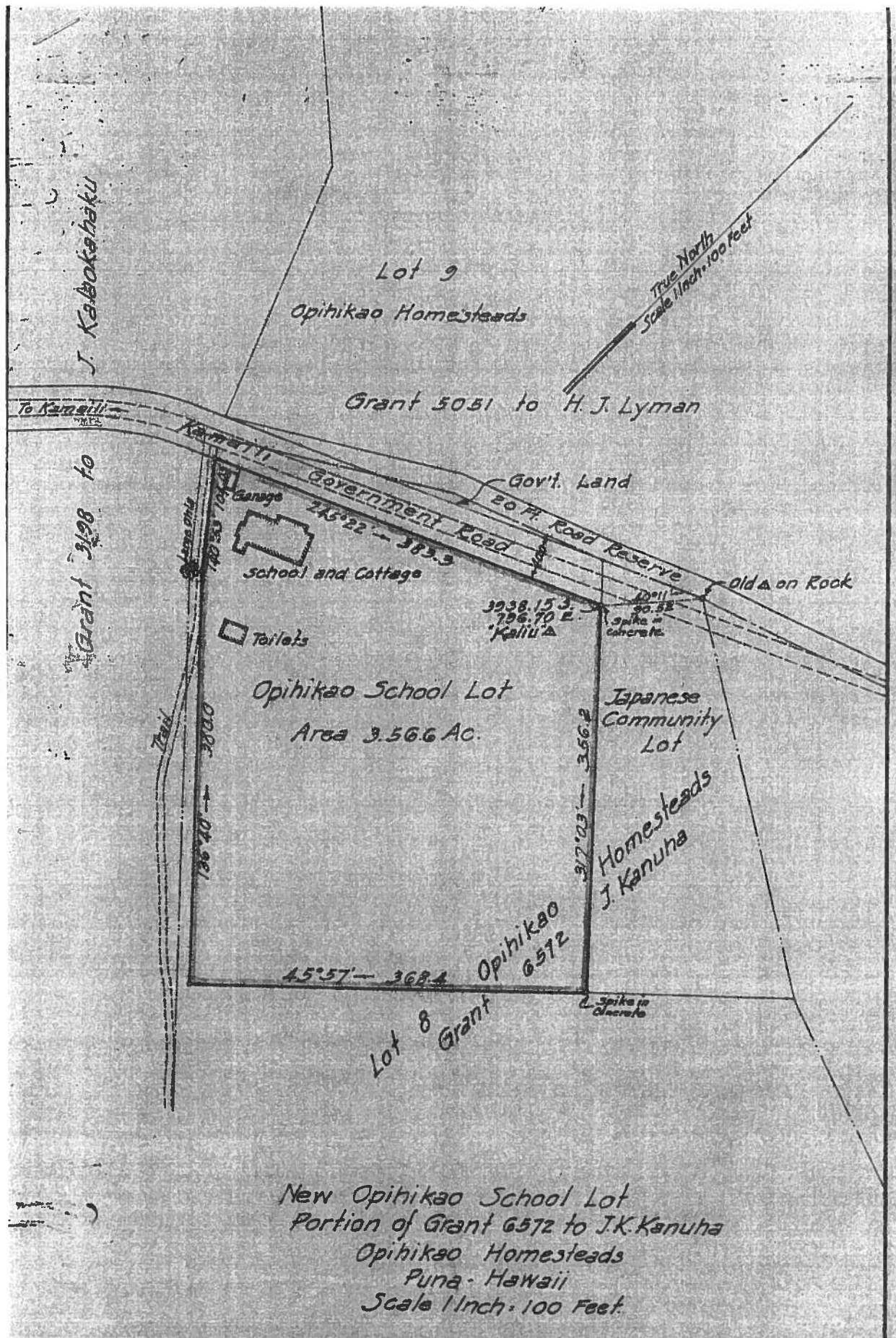
True North
Scale 1" = 100'

PLAT

Dr. OP/HIKAO VILLAGE, PUNA, HAWAII.

Dwg No: 8227
Solnce: For Map Survey Date
By: 08.10.2013 - May, 2013

EXHIBIT "A"



Kua O Ka La PCS

PO Box 1413 Pahoehoe, Hawaii 96778 Tel: 808-965-5098 email: kuaokala@ihawaii.net

RECEIVED
LAND DIVISION

2008 AUG -5 P 3:29

Department of Land and Natural Resources
Oahu District Branch
1151 Punchbowl Street, Room 220
Honolulu, Hawaii 96813
Attention: Charlene

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

July 31, 2008

Re: TMK: 1 3 06 14
Puna, Hawaii Island

Aloha!

Kua O Ka Lā Public Charter School received its Charter in 2000 as a result of successfully operating programs through our non-profit Ho'oulu Lahui for over 8 years. We opened our doors with grade 6-8 and then added a grade every year. Two years ago we had our first graduation and began to realize that we need to begin earlier with our youth as much of our time has been spent on intervention and "catching the kids up". As a result of this situation the Kua O Ka Lā PCS Board of Directors submitted and received approval to change its Detailed Implementation Plan Contract with the State of Hawai'i to address grades K-12 education instead of grades 6-12. This amendment was approved on February 14, 2008.

We have worked closely with Kahu John Makuakane of Opihikao Church and our community who have suggested that we host the Elementary School at the old Department of Education school site in Opihikao, known formerly as Opihikao Elementary School. The land remains vacant and the surrounding community is very receptive to this idea. Currently, the Elementary School will be located at the Opihikao Church Hall but we will soon outgrow these facilities.

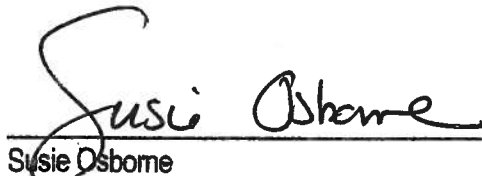
As a result of this we are submitting the documents for your review and in request of beginning the process of securing the property and the necessary permit procedures resulting in the operation of Kua O Ka La Public Charter Elementary School. We thank you for your consideration of support and we look forward to your guidance in this matter.

If you have any questions or concerns, please do not hesitate to contact me at 808 965-5098.

Mahalo nui loa,



Keikialoha Kekipi
Board President, Kua O Ka Lā PCS



Susie Osbome
Principal, Kua O Ka La PCS

EXHIBIT "B"

APPLICATION AND QUALIFICATION QUESTIONNAIRE
(Non-Profit)

Write answers in the spaces provided. Attach additional sheets as necessary, clearly indicating the applicable section number.

Part I: General Information

1. Applicant's legal name: Kua O Ka La Public Charter School
2. Applicant's full mailing address: P.O. Box 1413 Pahoa, HI 96778
3. Name of contact person: Susan Osborne
Contact person Phone No.: _____ ax No.: 808 965-9618
4. Applicant is interested in the following parcel:
Tax Map Key No.: 1 3 06 14 Location: Formerly Opihikao school site
If Applicant is current lessee: General Lease No.: _____
5. When was Applicant incorporated? We have a non profit support organization but we are applying through our Charter School.
Attach the following:
 - A. Articles of Incorporation
 - B. Bylaws
 - C. List of the non-profit agency's Board of Directors
 - D. IRS 501(c)(3) or (c)(1) status determination
 - E. Tax clearances from State of Hawaii and respective county Real Property Tax Office.
 - F. Audited financial statements for the last three years. If not audited, explain why.
If Applicant is a new start-up, attach projected capital and operating budgets.
 - G. Any program material which describes eligibility requirements or other requirements to receive services

Part II: Qualification

7. Is Applicant registered to do business in Hawaii: EDUCATION Yes/
8. Has Applicant received tax exempt status from the Internal Revenue Service? Yes/
9. Is Applicant licensed or accredited in accordance with federal, State or county statutes, rules, ordinances, to conduct the proposed activities? Yes/

List all such licenses and accreditations required:

We received our State Charter Contract in June 2002

10. Is Applicant in default or otherwise not in good standing with any State department (e.g. POS agency, DCCA, DLNR, etc.)? /No

If yes, explain:

11. Has Applicant had a State of Hawaii lease, permit, license, easement or sale in fee cancelled within the last five years? If yes, list: /No

<u>Doc. No.</u>	<u>Type of Agreement</u>	<u>Term of Agreement</u>
-----------------	--------------------------	--------------------------

_____	_____	_____
_____	_____	_____
_____	_____	_____

12. Does Applicant have any policies which discriminate against anyone on the basis of race, creed, color, national origin, sex or physical handicap? /No

If yes, explain:

13. Has Applicant received funding from a federal, State, or county government agency, the Aloha United Way, and/or a major private foundation within the last three years? Please list all such contracts below: Yes/

<u>Agency</u>	<u>Contract Term</u>	<u>Contract Amount</u>
<u>State Department of Education</u>	<u>No term</u>	<u>\$ Per pupil amount that</u>
<u>changes annually.</u>		
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

14. If Applicant has not received funding from a federal, State or county government agency, the Aloha United Way and/or a major private foundation during the past three years, describe Applicant's qualifications to effectively perform the proposed services, including but not limited to, grants or subsidies received from non-major, private fundors and/or staff or Board members who possess significant experience in Applicant's service field.

Part III: Program Activities and Persons to be Served

15. What activities will be conducted on the premises to be leased?

Charter School Elementary School K-5

16. What are the specific objectives of these activities?

Provide a public school education to our community through a Charter School

17. Describe the community need for and the public benefit derived from these activities.
Puna is the fastest growing District in the State. Currently we have been serving our community through grade 6-12 at Pu`ala`a but we have determined that we need to begin with Kindergarten in order to capture the educational needs of our youth. We will be a very small school that will not have a big impact on the surrounding community.

18. Describe the targeted population for these activities by: 1) age group, 2) gender, 3) ethnic background, 4) income level, 5) geographic location of residence, 6) special needs/disability, and 7) other applicable characteristic(s).

Age group

Year One K -1 age 5-7 Add a grade level every year to grade 5

Gender: Male and Female

Ethnicity Predominately Hawaiian but all welcome

Income level Dependant on family but current income level of existing students = 90% eligible for free and reduced lunch

Geographic Puna

Special needs Some special education students will attend

19. Describe all eligibility requirements of clients to participate in the activities, e.g. age, income level, ethnic background, income level, disability, etc.
None, we are a public school

20. Do you require membership to participate in these activities?

/No

If yes, list the requirements of becoming and remaining a member:

21. How many unduplicated persons will engage in the activities annually?

Activity

Persons Per Year

School will be 5 days a week

Year one 20 students 4 staff

Year two 30 students 5 staff

Year three 45 students, 6 staff

Year four 60 student , 7 staff

Year five 75 students 8 staff

22. Is State funding made available for the activities to be conducted on the leased premises?

Yes/~~No~~

If yes, by which State agency: Department of Education

23. List all activities to be conducted on the leased premises which require payment of excise taxes, e.g. subleasing, sale of products or services. Include an estimate of annual gross revenues from each activity.

NIA

Development of the Land

24. Describe the proposed site development plan for the property, indicating the location and size of buildings, parking areas, landscaped areas and related uses. Attach sketch of plan if available. Architect drawings will be developed and submitted to County Planning office and any other permits required will be addressed.

25. What improvements to the land do you intend to make and at what cost?

Construct elementary school

Cost estimate at 1 million \$

26. How will the improvements be funded?

Grant and corporate funding

27. Describe all environmental, land use and other permitting requirements which must be met to

develop the land as proposed.

Special Use Permit

28. Will you be subleasing any portion of the property? If yes, describe the sublease uses:

No

Part V: Notarized Certification

I/We hereby certify that the statements and information contained in this Application and Questionnaire, including all attachments, are true and accurate to the best of my/our knowledge and understand that if any statements are shown to be false or misrepresented, I/we may be disqualified from receiving a lease or my/our lease may be canceled.

Thermon Kerkialoha Kekipi
Applicant Name

Susan Osborne
Applicant Name

By: Thermon Kerkialoha Kekipi

By: Susan Osborne

Its: Board President

Its: PRINCIPAL

Date: 6/3/08

Subscribed and sworn to before me this
18 day of June, 2008.

Shelley Kane
Notary Public

County of: Hawaii

State of: Hawaii

My commission expires: 2.18.11

L.S.

L.S.

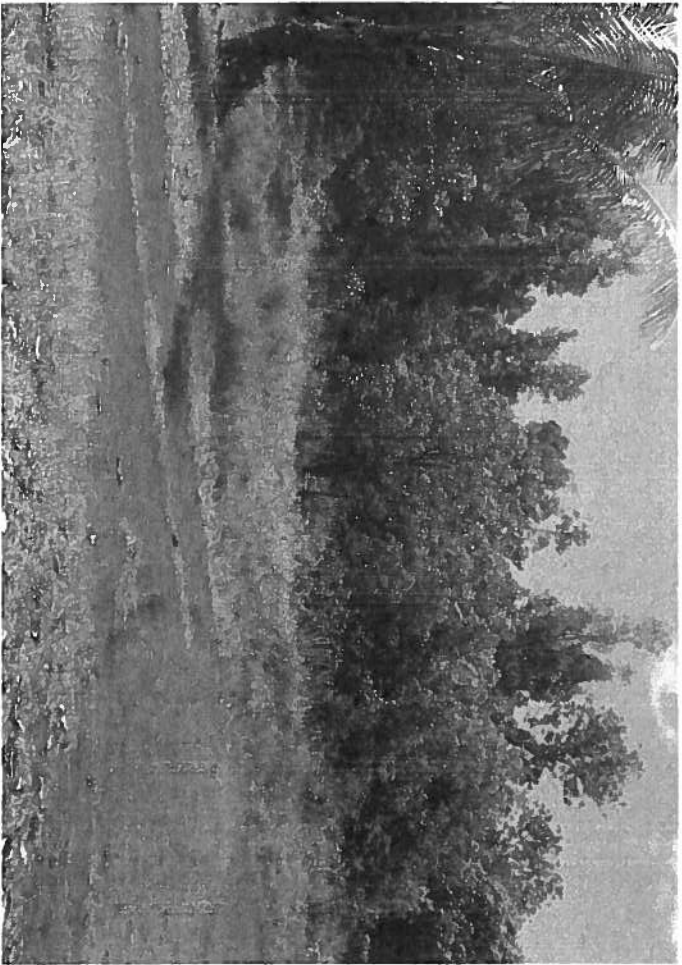
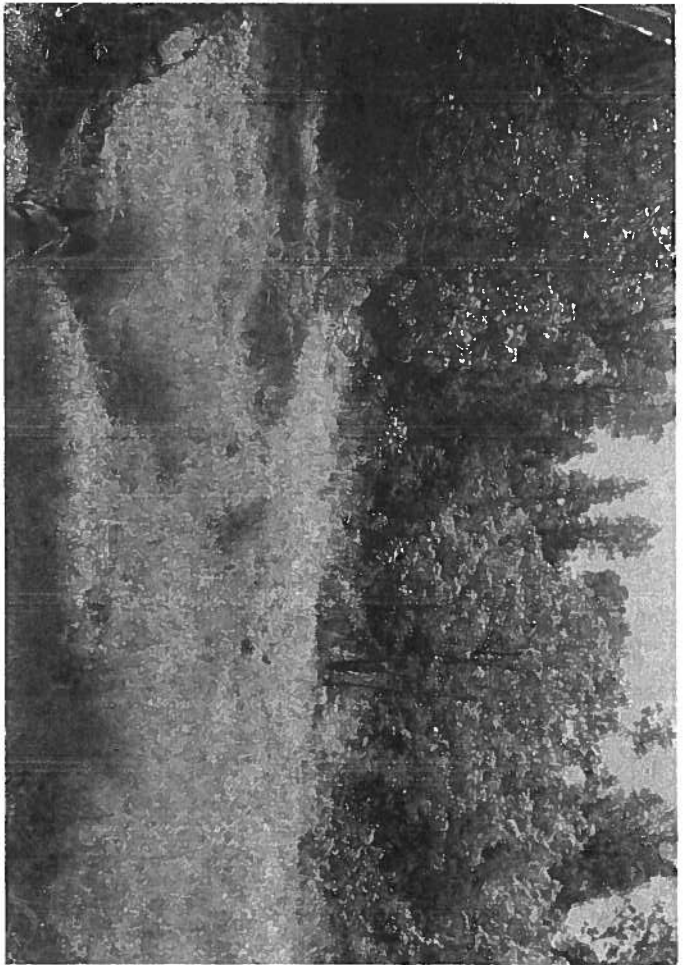
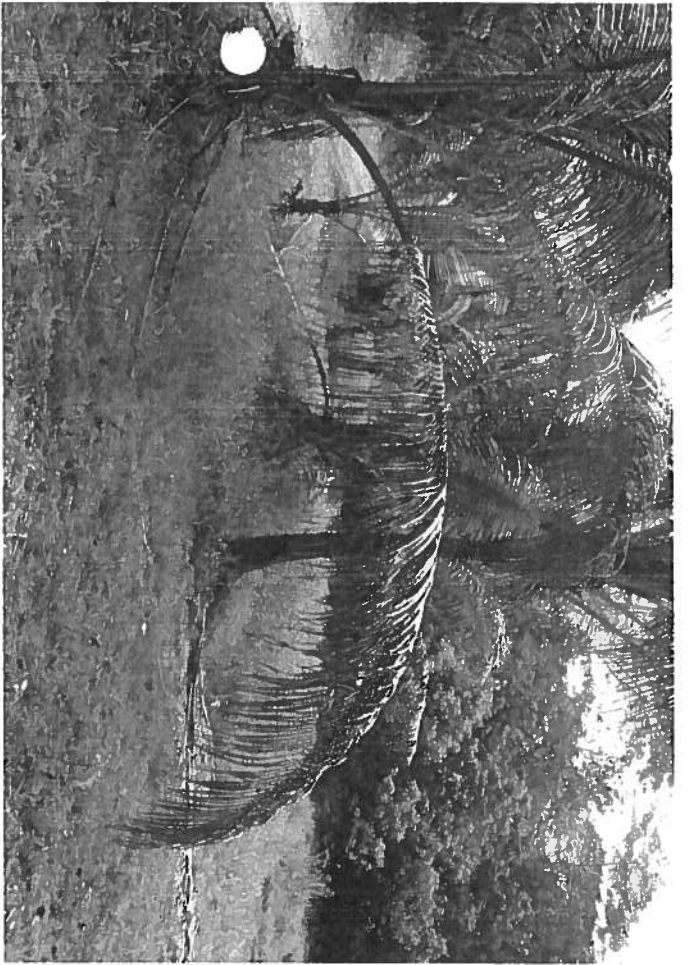


Exhibit "B"

Board President Keikialoha Kekipi
Letter Dated September 18, 2010

Kua O Ka La PCS

PO Box 1413 Pahoehoe, Hawaii 96778 Tel: 808-965-5098 email: kuaokala@ihawaii.net



September 13, 2010

Dear Chairman Laura Thiclen and Board Members:

Subject: Request for extension of time to comply with Chapter 343 HRS for Kua O Ka La Public Charter School for School Purposes, Puna, Hawai'i,
Tax Map Key: (3) 1-3-6:14.

PSF No:08HD-136

REQUEST:

Board President, Keikialoha Kekipi is respectfully requesting a 24 month extension in order to fulfill the Chapter 343 Hawaii Revised Statutes - compliance mandates through the DLNR.

The schools master development plan is behind on its development timeline due to numerous unforeseen situations including contractor issues and funding cut backs.

We would like to request a two year extension; October 30, 2012. This partnership and utilization of said parcel is a very important part of our schools overall growth plan. Facilities to house the Charter School students will address DOE Chapter 87, health and safety requirements/compliance.

We thank you for your consideration in this matter and look forward to hearing back from you.

Mahalo

Keikialoha Kekipi
Board President: Kua O Ka La Public Charter School